

REMARKS

This paper is filed in response to the Final Office Action mailed September 01, 2010. Claims 10-18 and 20 have been withdrawn. Claims 7 and 21 have been amended. Claim 2 is original. Claims 1, 3-6 and 19 are previously presented. Claims 8 and 9 have been cancelled. Therefore, claims 1-7, 19 and 21 as amended remain pending, and Applicant respectfully requests reconsideration and allowance thereof.

Claim amendments

Claims 7 and 21 have been amended. Claim 7 has been amended to indicate that the weight percent is of the total coating composition. Claim 21 has been amended to correct an antecedent basis issue. The amendment for claim 7 can be found on page 13, lines 13-19 of application as filed. Therefore, no new matter has been added.

§112 Rejection

Claims 7 and 21 stand rejected under 35 USC §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 7, the Office Action states that it is unclear what the weight percentage for the dispersing agent is based on (total weight of the coating composition, solids in the composition, etc.). Applicant has amended the application in accordance with page 13, lines 13-19 of the application as filed as indicated by the Examiner, thereby obviating the instant rejection.

Regarding claim 21, the Office Action indicates that there is insufficient antecedent basis for “the layered double hydroxides”. Applicant has amended claim 21 to remove “the” prior to layered double hydroxides thereby obviating the antecedent basis issue.

§102(b) Rejection

Claims 1-8, 19 and 21 are rejected under 35 U.S.C. §102(b) as being anticipated by Rohrbaugh et al (US2002/0028288) in view of evidence provided by Bejoy (Hydrotalcite article).

In order to anticipate a claim, a reference must disclose each and every element of the claim. MPEP §2131. Further, reference must show all element “in as complete detail as is contained in the ... claim.” *Id.*, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Additionally, the elements must be arranged as required by the claim. *Id.*, citing *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant respectfully submits that the Rohrbaugh reference does not meet these requirements. Specifically, the Rohrbaugh reference does not disclose a stain blocking water borne coating composition comprising an organic binder, wherein the total amount of the water borne organic polymeric binders is 20-100 % by weight, based on the total weight of the water borne coating composition.

While the present invention requires at least 20% by weight of a water borne organic polymeric binder, the Rohrbaugh discloses a system in which a binder is not required. In paragraphs 0011 and 0012 of Rohrbaugh it is specifically disclosed that, unlike several cited prior art systems such as the ones disclosed in US4,173,480 and US4,868,048, in the system disclosed in Rohrbaugh a “binder is not required to apply the nanoparticle to the surface.” In fact, the Rohrbaugh reference discloses mixing and/or dispersing nanoparticles in a carrier medium. (*See, e.g.*, paragraphs 0019, 0020, 0021). In other embodiments disclosed in the Rohrbaugh reference, a surfactant is added to nanoparticles (*see e.g.* paragraph 0101).

The combination of a binder, inorganic nanoparticles having a layered structure and a crystal structure with positively charged layers with a binder in a water borne system is not disclosed in the Rohrbaugh reference.

That notwithstanding, the Examiner seems to conflate the presence of polymers as adjunct materials as being binders (Examiner cites to paragraph 116 as indicating that polymeric materials can be absorbed on a nanoparticle). However, this does not make sense for three reasons: (1) in practice binders don’t absorb onto nanoparticles, (2) there is no indication anywhere in the Rohrbaugh reference that the polymers are or can be organic binders, and (3) the fact that polymeric materials are absorbed on nanoparticles suggest that they are present in smaller quantities than the nanoparticles – which is the opposite of the requirement of the present invention, where nanoparticles are present in much smaller amounts (0.1 to 4 wt %) than the polymeric binder (20-100 wt%)!

Applicants respectfully submit that the §102 rejection is improper and should be withdrawn. Applicants believe that the amended claims are patentable and that the instant application should now move to allowance.

Request for Telephonic Interview

Applicant appreciates the Examiner's acknowledgment of a request for telephonic interview. Applicant believes that at this time all issues are addressed. However, Applicant will contact the Examiner to schedule a telephonic interview to clarify any remaining issues prior to mailing of an Advisory Action.

Any extension of time that may be deemed necessary to further the prosecution of this application is hereby requested.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing the docket number shown above.

Pursuant to MPEP §502.03, authorization is hereby given to the USPTO to communicate with Applicant's representative concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file. Applicant's representative, Coraline J. Haitjema, can be reached at email address haitjemac@howrey.com.

The Examiner may also contact the undersigned by telephone at the number given below in order to resolve any questions (note, this telephone number is an Amsterdam phone number, Amsterdam time is 6 hours ahead of US east coast time).

Respectfully submitted,

/chaitjema/

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